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No. 523

In the Supreme Court of the United States

OCTOBER TERM, 1956

ALVA G. BLANCHARD, PETITIONER

v.

ROBERT C. WATSON, COMMISSIONER OF PATENTS

PETITION FOR REHEARING ON PETITION FOR WRIT OF CERTIORARI ON THE AFFIDAVIT OF ALVA G. BLANCHARD, PETITIONER

PETITION FOR REHEARING

ALVA G. BLANCHARD
In propria persona
For Petitioner

AFFIDAVIT

There has been a serious miscarriage of justice in the denial of certiorari by the United States Supreme Court in suit No. 523, *Blanchard vs. Watson*, and reconsideration should be given the matter.

The facts appear to have been lost in a legal maze.

The whole case arose by reason of the fact that a different examiner in the Patent Office was assigned a patent application which was a required division of an earlier application. This second examiner made a mistake first of disallowing the claims on a species claim patent that originated in the same original application, by the same applicant.

When it was called to his attention that the disallowed claims were generic and originated in the original application and a subsequent species claim patent could not be cited against them, the examiner then to make his first mistake appear to be right, made his second mistake of holding that the generic claims were not filed until after the species claim patent issued.

When this mistake was called to his attention, that there was a generic claim in the original application and cited the claim to him, he made his third mistake of holding this claim was not in the case and it was cancelled when the species claim patent issued.

When this mistake was called to his attention by showing that it was not a cancellation but was a reservation, quoting the entire sentence:

> "Cancel all claims except claim 14, and applicant reserves the right to amend the cancelled claims and make them the subject matter of divisional applications."

the examiner made his fourth mistake of holding that he could separate this sentence and give effect to the cancellation part of it without giving effect to the reservation part of it.

It is clear that if the original examiner had received the subsequent applications, these mistakes would not have been

made and the only reason this suit has for its existence is that the second examiner made a mistake and then made many more to make his first mistake stand up.

Then when the matter was first presented in the District Court and the prior art patents were injected into the case, I made a special trip to Washington and at a conference with Counsel for the Patent Office said I would like to show him how these old prior art patents were not pertinent at all and if I could do so that he might want to eliminate them. He replied that he wanted them in there. I then asked how he found them. He replied that he simply asked the Patent Office to furnish him some patents that looked like the application in suit.

The Court then made the mistake of considering these old prior art patents that were not cited by the Patent Office even though they were in their records, that were dumped into the records with no testimony whatever as to their pertinency.

I spent a great deal of time and money developing the generic ideas covered by the generic claims in suit, relying on the United States Patent laws for protection in recovering the investment and I have received no protection whatsoever on the main generic ideas expressed by the three generic claims in suit, competitors having infringed them since shortly after the original application was filed.

The small protection afforded by the species claim patent is practically worthless as there are so many ways to avoid it that competitors infringing the generic ideas can only be curbed by the granting of a patent containing the generic claims in question.

In the interests of justice, it is earnestly requested that reconsideration be given this suit.

Respectfully submitted,

Alva G. Blanchard, Petitioner
3618 Fairfield Avenue
Shreveport, Louisiana

December, 1956

I hereby certify that this petition for rehearing is presented in good faith and not for delay, and that the grounds stated herein are restricted to grounds not heretofore presented to this Honorable Court.

ALVA G. BLANCHARD
Petitioner
In propria persona